

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3954 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SABARKANTHA DIST CENTRAL CO-OP. BANK LTD.

Versus

STATE OF GUJARAT

Appearance:

MR AB MUNSHI for Petitioner

MR YF MEHTA for Respondent No. 1

MR RC JANI for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner is a Cooperative Bank registered under the provisions of the Gujarat Cooperative Societies Act, 1961. It is not in dispute that the land in dispute was granted to the petitioner by Commissioner, Vadodara under its order dated 16th April, 1962. Some of the

conditions of the grant are to be referred, which are as under:

1. That the land shall not be used for the purpose other than for construction of a bank building.
2. That the bank shall construct and complete the building within two years from the date of taking over the possession.
3. That the breach of any of the conditions shall render the grant liable to cancellation and land to be resumed without payment of any compensation.

3. The counsel for the respondent admitted that the aforesaid grant made in favour of the petitioner under the order dated 16th April, 1962 has not been cancelled and the land has not been resumed. This land came to be allotted to the respondent No.2 by the Collector of District Sabarkantha at Himmatnagar. The petitioner, after it came to know about the grant of the disputed land to the respondent No.2 preferred a revision application before the Government, which has been dismissed under the order dated 26th February, 1992. Hence, this Special Civil Application.

4. The grant of the land in favour of the respondent No.2 has been made by the Collector under its order dated 24th April, 1986. It is not disputed by the respondent also that before passing of the order dated 24th April, 1986, the Collector has not given any notice to the petitioner. The revisional authority under its impugned order has justified the grant of the land in favour of the respondent No.2 on the ground that by not making any construction for number of years, the bank has lost the right over the land. So, the approach of the revisional authority is that by not raising the construction on the land for years together, the grant has come to an end automatically. That approach of the revisional authority is contrary to the terms of the grant of the land made in favour of the petitioner. The conditions referred above contemplates that in case the construction over the land has not been made within a period of two years from the date of taking over the possession then the grant is liable to cancellation, and land is liable to be resumed without payment of any compensation, but the cancellation is not automatic. The revisional court has not looked into the conditions of the grant of the land made in favour of the petitioner.

5. Many other contentions have been raised by the learned counsel for the petitioner in the matter, but in view of the fact that the cancellation of the grant made in favour of the petitioner of the land is not there and the grant of the land in dispute has been made to respondent No.2 without notice to the petitioner, the order of the Collector dated 24th April, 1986 cannot be allowed to stand.

6. In the result, the order dated 24th April, 1986 of the Collector, Sabarkantha, and that of the Government dated 26th February, 1992, are quashed and set aside. However, it shall be open to the District Collector, Sabarkantha to proceed in the matter afresh i.e. with regard to the cancellation of the grant of the land made in favour of the petitioner and regrant of the land in dispute in favour of the respondent No.2 for construction of Post Office building in accordance with law and after hearing all the concerned parties. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.

zgs/-